



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, मंगलवार, 17 अप्रैल, 2007 / 27 चैत्र, 1929

हिमाचल प्रदेश सरकार

श्रम एवं रोजगार विभाग

अधिसूचना

शिमला-2, 12 अप्रैल, 2007

संख्या श्रम (ए) 4-9/2003.—हिमाचल प्रदेश के राज्यपाल औद्योगिक नियोजन (स्थायी आदेश) अधिनियम, 1946 (1946 का 20) की धारा 2 खण्ड (बी) के साथ पठित धारा 15 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उद्योग विभाग की अधिसूचना संख्या 10-17/71-एस. एल.—जितद-II तारीख 6 सितम्बर, 1973 द्वारा अधिसूचित और राजपत्र, हिमाचल प्रदेश (साधारण) तारीख 20 अक्टूबर, 1973 में प्रकाशित इण्डस्ट्रीयल इम्प्लायमैन्ट (स्टैंडिंग आर्डरज) हिमाचल प्रदेश रूलज, 1973 में पूर्वोक्त अधिनियम के प्रयोजनों के लिए (और संशोधन हेतु) निम्नलिखित नियम बनाने का प्रस्ताव करते हैं तथा

प्रस्तावित नियमों का प्रारूप उक्त अधिनियम की धारा 15 की उप-धारा (1) के अधीन यथा अपेक्षित के अनुसार जन साधारण की जानकारी के लिए राजपत्र, हिमाचल प्रदेश में प्रकाशित करते हैं।

यदि इन नियमों से संभाव्य प्रभावित कोई व्यक्ति इन नियमों के बारे में कोई आक्षेप करना चाहे या सुझाव देना चाहे तो वह उसे इन प्रारूप नियमों के राजपत्र, हिमाचल प्रदेश में प्रकाशन की तारीख से 30 दिन की अवधि के भीतर सचिव (श्रम एवं रोजगार), हिमाचल प्रदेश सरकार को भेज सकेगा।

उपर्युक्त विनिर्दिष्ट अवधि के भीतर प्राप्त आक्षेप(यों) या सुझाव(यों) यदि कोई हो पर सरकार द्वारा उक्त प्रारूप नियमों को अंतिम रूप देने से पूर्व विचार किया जाएगा।

1. संक्षिप्त नाम.—इन नियमों का संक्षिप्त नाम इण्डस्ट्रीयल इम्प्लायमेंट (स्टैंडिंग आर्डरज) हिमाचल प्रदेश (अमेंडमेंट) रूल्ज, 2007 है।

2. नियम 5 का संशोधन.—इण्डस्ट्रीयल इम्प्लायमेंट (स्टैंडिंग आर्डरज) हिमाचल प्रदेश रूल्ज, 1973 (जिन्हें इसमें इसके पश्चात् उक्त नियम कहा गया है) के नियम 5 में मद (4) के पश्चात् निम्नलिखित मद अन्तःस्थापित की जाएगी, अर्थात्:—

“(4A) number of fixed term employment workmen”.

3. शडयूल-1 का संशोधन.—उक्त नियमों से संलग्न शडयूल-1 में,—

(क) पैरा 2 में के उप-पैरा(ए) की मद (3) के पश्चात्, निम्नलिखित मद अन्तःस्थापित की जाएगी, अर्थात्:—

“(3A) fixed term employment”.

(ख) पैरा 2 में उप-पैरा (जी) के पश्चात् निम्नलिखित उप-पैरा जोड़ा जाएगा, अर्थात्:—

“(h) ‘a fixed term employment’ workman is a workman who has been engaged on the basis of contract of employment for a fixed period. However, his working hours, wages, allowances and other benefits shall not be less than that of a permanent workman, he shall also be eligible for all statutory benefits available to a permanent workman proportionately according to the period of service rendered by him even though his period of employment does not extend to the qualifying service period of employment required in the statute”.

(ग) पैरा 3 के स्थान पर निम्नलिखित प्रतिस्थापित किया जाएगा, अर्थात्:—

“Every workman whether permanent, badli, temporary, casual, fixed term employed, apprentice, probationer or contract labour workman shall be issued Identity Card/Ticket in Form-A. The employer shall submit the same in Form-A to the concerned Labour Officer within 3 days from the date of employment of workman for attestation and the Labour shall return the same within 7 days from the receipt of the same to the employer for further distribution to the workmen.

The record of Identity Card/Ticket shall be maintained in Form-B and its Index shall be maintained in Form-C. The employer shall submit the copies of the form-B and its Index in Form-C to the concerned Labour Officer:

Provided that the employer who issues Identity/Employment Card/Ticket to the aforesaid workman under the Minimum Wages Himachal Pradesh Rules, 1978 & H.P. Contract Labour (R&A) 1974 Employer/Contractor Pass Book Inter State Migrate workman rules. He shall not be required to issue Tickets/Identity Card to workers under schedule-I under Industrial Employment (Standing Order) H.P. Rules, 1973.

Any change in Identity Card/Ticket and corresponding Form-B including addition, deletion and alteration shall be intimated to the concerned Labour Officer within 7 days from such changes by the employer and shall be attested by the concerned Labour Officer.

The employer shall bear the cost of issue of Identity Cards/Tickets to the workmen employed in the establishment.

The Identity Cards/Ticket shall be valid for a period of three years from the date of issue or date of termination of employment of the workmen by the employer, whichever is earlier.

The employer shall submit new Identity Card/Ticket in Form-A not less than 30 days before the date on which the Identity Card/Ticket expires to the area Labour Officer for attestation for a further period of three years. The Labour Officer shall return the same duly attested within a period of seven days from the date of receipt of the same, to the employer for further distribution to the workmen".

(घ) पैरा 13 में, उप-पैरा (2) के पश्चात् निम्नलिखित उप-पैरा जोड़ा जाएगा, अर्थात्:—

"(3) subject to the provisions of the Industrial Disputes Act, 1947 (14 of 1947), no temporary workman whether monthly rated or weekly rated or piece rated and no probationer or badli or fixed term employment workman as a result of non renewal of contract of employment or on its expiry, shall be entitled to any notice or pay in lieu thereof, if his service are terminated, but the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in paragraph 14 of this Schedule".

(ङ) पैरा 16 में, उप-पैरा (3) में मद (के) के पश्चात् निम्नलिखित मद जोड़ी जाएगी :—

(I) Sexual harassment which includes such unwelcome sexual determined behaviour (whether directly or by implication) as,

- (i) physically contact and advances; or
- (ii) demand or request for sexual favours; or
- (iii) sexually coloured remarks; or
- (iv) showing pornography; or
- (vi) any other un-welcome physical, verbal or non-verbal conduct of sexual nature".

आदेश द्वारा,

हस्ताक्षरित /—
सचिव।

[Authoritative English text of this Department Notification No. Shram(A)4-9/2003, dated 12-4-2007 as required under clause (3) of Article 348 of the Constitution of India].

Labour and Employment Department

NOTIFICATION

Shimla-171 002, the 12th April, 2007

No. Shram(A)4-9/2003.—In exercise of the powers conferred by section 15 read with clause (b) of Section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), the Governor of Himachal Pradesh proposes to make the following rules further to amend the Industrial Employment (Standing Orders) Himachal Pradesh Rules, 1973 notified *vide* Industries Department Notification No. 10-17/71-SL-Vol.-II, dated 6th September, 1973 and published in the Rajpatra, Himachal Pradesh (Ordinary) dated 20th October, 1973 for the purposes of the aforesaid Act and the draft of the proposed rules is published in the Rajpatra, Himachal Pradesh for the information of the general public as required under sub-section (1) of section 15 of the said Act.

If any person likely to be affected by these rules has any objections or suggestions to make with regard to the said rules, he may send the same to the Secretary (Labour and Employment) to the Government of Himachal Pradesh, Shimla-2 within a period of thirty days of the publication of the draft rules.

The objection(s) or suggestions(s), if any received within the period specified above shall be taken into consideration by the State Government, before finalizing the said rules.

1. Short title.—These Rules may be called the Industrial Employment (Standing Orders) Himachal Pradesh (Amendment) Rules, 2007.

2. Amendment of rule 5.—In rule 5 of the Industrial Employment (Standing Orders) Himachal Pradesh Rules, 1973 (hereinafter referred to as the said Rules), after item (4), the following item shall be inserted, namely:—

"(4A) number of fixed term employment workmen".

3. Amendment of Schedule-1.—In Schedule-1 appended to the said Rules,—

(a) in paragraph 2, in sub-paragraph (a) after item (3), the following item shall be inserted, namely:—

"(3A) fixed term employment".

(b) in paragraph 2, after sub-paragraph (g), the following sub-paragraph shall be added, namely:—

"(h) 'a fixed term employment' workman is a workman who has been engaged on the basis of contract of employment for a fixed period. However, his working hours, wages, allowances and other benefits shall not be less than that of a permanent workman, he shall also be

eligible for all statutory benefits available to a permanent workman proportionately according to the period of service rendered by him even though his period of employment does not extend to the qualifying service period of employment required in the statute".

(c) For paragraph 3, the following shall be substituted, namely:—

"3(1) "Every workman whether permanent, badli, temporary, casual, fixed term employed, apprentice, probationer or contract labour workman shall be issued Identity Card/Ticket in Form-A. The employer shall submit the same in Form-A to the concerned Labour Officer within 3 days from the date of employment of workman for attestation and the Labour shall return the same with in 7 days from the receipt of the same to the employer for further distribution to the workmen.

The record of Identity Card/Ticket shall be maintained in Form-B and its Index shall be maintained in Form-C. The employer shall submit the copies of the form-B and its Index in Form-C to the concerned Labour Officer:

Provided that the employer who issues Identity/Employment Card/Ticket to the aforesaid workman under the Minimum Wages Himachal Pradesh Rules, 1978 & H.P. Contract. Labour (R&A) Rules, 1974 Inter State Migrate workman rules. He shall not be required to issue Tickets/Identity Card to workers under schedule-I as prescribed under Industrial Employment (Standing Order) H.P. Rules, 1973.

(2) Any change in Identity Card/Ticket and corresponding Form-B including addition, deletion and alteration shall be intimated to the concerned Labour Officer within 7 days from such changes by the employer and shall be attested by the concerned Labour Officer.

(3) The employer shall bear the cost of issue of Identity Cards/Tickets to the workmen employed in the establishment.

(4) The Identity Cards/Ticket shall be valid for a period of three years from the date of issue or date of termination of employment of the workmen by the employer, whichever is earlier.

(5) The employer shall submit new Identity Card/Ticket in Form-A not less than 30 days before the date on which the Identity Card/Ticket expires to the area Labour Officer for attestation for a further period of three years. The Labour Officer shall return the same duly attested within a period of seven days from the date of receipt of the same, to the employer for further distribution to the workmen".

(d) In paragraph 13, after sub-paragraph (2), the following sub-paragraph (3) shall be added, namely:—

"(3) subject to the provisions of the Industrial Disputes Act, 1947 (14 of 1947), no temporary workman whether monthly rated or weekly rated or piece rated and no probationer or badli or fixed term employment workman as a result of non renewal of contract of employment or on its expiry, shall be entitled to any notice or pay in lieu thereof, if his service are terminated,

but the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in paragraph 14 of this Schedule”.

(e) in paragraph 16, in sub-paragraph (3), after item (K), the following item shall be added:—

- (I) Sexual harassment which includes such unwelcome sexual determined behaviour (whether directly or by implication) as,
- (i) physically contact and advances; or
 - (ii) demand or request for sexual favours; or
 - (iii) sexually coloured remarks; or
 - (iv) showing pornography; or
 - (v) any other un-welcome physical, verbal or non-verbal conduct of sexual nature”.

By orders,

Sd/-
Secretary.